IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 3955 of 2005

Between:

Somaraju Sitharama Rao, S/o.Ranga Rao,
r/o.Ranga Rao Banjar, Penuballi Mandal,

Khammam District.

..... PETITIONER

AND

1. The District Collector,

Khammam District, at Khammam.

2. The District Panchayat officer,

Khammam.

3. The Sarpanch, Gram Panchayat

Kuppenakuntla, Penuballi Mandal,

Khammam District.

4. M.Srinivasa Rao,
r/o.Kupenakuntla of Penuballi Mandal,

Khammam District.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to

issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings issued by the second respondent in Rc.No.P3/115/ 2005 dated 23-2-2005, as illegal, arbitrary, without jurisdiction and set aside the same, and consequently direct the second respondent not to interfere with the fishing rights of the petitioner over the Tank "Deepa Cheruvu" as per agreement dated 7-2-2005 already entered by third respondent with the petitioner.

Counsel for the Petitioner: MR.BADANA.BHASKARA RAO

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.4: MR C.B.RAMMOHAN REDDY

The Court made the following:

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ORDER:

When W.V.M.P.No.811 of 2005 and W.P.M.P.No.16494 of 2005 came up for hearing, both the parties consented for the disposal of the writ petition itself and accordingly writ petition is taken up for final hearing and it is being disposed of by this order.

2. The writ petition has been filed by Somaraju Sitharama Rao with a prayer to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the proceedings issued by the second respondent in Rc.No.P3/115/2005 dated 23.2.2005, as illegal, arbitrary, without jurisdiction and set aside the same, and consequently direct the second respondent not to interfere with the fishing rights of the petitioner over the tank " Deepa Cheruvu" as per agreement dated 07.02.2005.

3. It is the case of the petitioner that he participated in the open auction conducted for fishing rights in "Deepa Cheruvu" and became successful bidder having offered Rs.37,500/-. An agreement dated 07.02.2005 came to be entered between the writ petitioner and the Sarpanch, Gram Panchayat Kuppenakuntla. In pursuance of the said agreement, the writ petitioner has taken possession of the tank and put fish worth of Rs.1 lakh. On representation of some persons, the District Panchayat

Officer-second respondent by memo dated 23.02.2005 ordered for re-auction of the fish tank (Deepa Cheruvu). The said memo has been challenged by the writ petitioner.

4. An interim order came to be passed on 02.03.2005 granting interim suspension of the memo issued by the second respondent vide W.P.M.P.No.5330 of 2005. The respondents 1 to 3 filed counter-affidavits.

5. The fact that writ petitioner participated in the auction and he became highest bidder having offered Rs.37,500/- is not in dispute. The learned counsel for the petitioner submits that the District Panchayat Officer-second respondent issued memo dated 10.05.2005 restraining the writ petitioner from catching the fish and thereby the writ petitioner could not enjoy the entire period for which he became the successful bidder.

6. The learned counsel for the 4th respondent submits that no orders can be granted in the writ petition in view of the fact that the period for which the writ petitioner obtained fishing rights has been expired.

7. It is no more in dispute that the fishing rights were put to auction. Period of auction was upto 30th June 2005. Even the agreement on which the writ petitioner has placed much reliance indicates that the writ petitioner was permitted to catch the fish only upto 30th June 2005. The learned counsel for the petitioner, by placing reliance on the decision of our High Court in **Vaddavalli fishermen Cooperative Society Ltd., V. Rayidi Krishna Kumari and others**, submit that the writ petitioner is entitled to catch the fish in the tank despite the expiry of period of lease. I am unable to accept his contention since the auction notice, terms of the auction and agreement entered between the writ petitioner and the Sarpanch, Gram Panchayat, clearly indicate that the lease period was upto 30th June 2005. Since the period has been expired, no relief can be granted to the writ petitioner.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY,J.

Date: 19th July 2005.

Note:

Issue CC within a week.

// B.O.//

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector,

Khammam District, at Khammam.

2. The District Panchayat officer,

Khammam.

3. The Sarpanch, Gram Panchayat

Kuppenakuntla, Penuballi Mandal,

Khammam District.

4. Two CCs to the Govt. Pleader for

Panchayat Raj & Rural Development,

High Court of A.P., Hyderabad (OUT).

5. 2 CD copies

*Form-NIC-OGS/WP{**JA**}*